

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: ) PACA Docket No. D-98-0019  
)  
Bagwell Farms Produce )  
Co., Inc., )  
)  
Respondent ) Consent Decision and Order

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a et seq.; hereinafter referred to as the "Act"), instituted by a Complaint filed on April 30, 1998, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture.

The Complaint alleges that during the period June 1994 through April 1997, Respondent Bagwell Farms Produce Co., Inc. (hereinafter "Respondent") failed to make full payment promptly to 35 sellers of the agreed purchase prices, or balances thereof, in the total amount of \$355,299.80 for 349 lots of perishable agricultural commodities, which it purchased, received and accepted in interstate commerce. A copy of the Complaint was served upon Respondent. The Respondent and Complainant have now agreed to the entry of a Decision and Order as set forth herein. Therefore, pursuant to Section 1.138 of the Rules of Practice (7 C.F.R. § 1.138), the following Decision and Order is issued without further procedure or hearing.

### Finding of Fact

1. Respondent Bagwell Farms Produce Co., is a corporation whose business address was 455 Finley Avenue West, Birmingham, Alabama 35204. It's current mailing address is 126 Cobb Lane, Empire, Alabama 35063.

2. Pursuant to the licensing provisions of the PACA, license number 930003 was issued to Respondent on October 1, 1992. This license terminated on October 1, 1996, pursuant to Section 4(a) of the PACA (7 U.S.C. § 499(a)), when Respondent failed to pay the required annual renewal fee.

3. The Secretary has jurisdiction over Respondent and the subject matter involved herein.

4. As set forth more fully in paragraph III of the Complaint, during the period June 1994 through April 1997, Respondent failed to make full payment promptly to 35 sellers of the agreed purchase prices, or balances thereof, in the total amount of \$355,299.80 for 349 lots of perishable agricultural commodities purchased, received and accepted in interstate commerce.

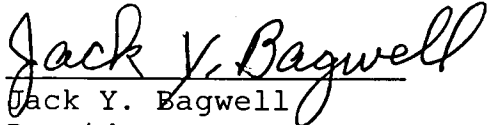
### Conclusions

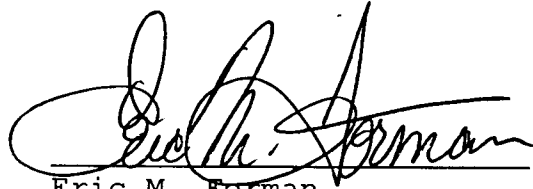
Respondent has committed flagrant violations of Section 2(4) of the PACA (7 U.S.C. § 499b), by failing to make full payment promptly with respect to the transaction set forth in Finding of Fact No. 4 above, for which the Order below is issued.

Order

A finding be made that Respondent committed willful, flagrant and repeated violations of Section 2 of the Act (7 U.S.C. § 499b) and that the facts and circumstances set forth above be published.

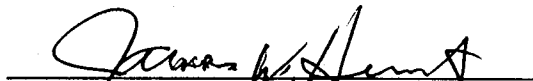
The Order shall become effective 30 days after issuance. Copies hereof shall be served upon the parties.

  
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Jack Y. Bagwell  
President  
Bagwell Farms Produce Co., Inc.

  
\_\_\_\_\_  
Eric M. Forman  
Associate Deputy Administrator  
Fruit and Vegetable Programs  
Agricultural Marketing Service  
Complainant

  
\_\_\_\_\_  
Jane McCavitt  
Attorney for Complainant

Issued this 16th day of August, 1999  
at Washington, D.C.

  
\_\_\_\_\_  
James W. Hunt  
Administrative Law Judge